

# EXHIBIT X

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

\*\*\*\*\*  
MICHAEL CLOUD,  
Plaintiff,  
VS.

CASE NO. 3:20-cv-1277-S

THE BERT BELL/PETE ROZELLE  
NFL PLAYER RETIREMENT PLAN,  
Defendant.

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TRANSCRIPT OF BENCH TRIAL  
HEARD BEFORE THE HONORABLE KAREN GREN SCHOLER  
UNITED STATES DISTRICT JUDGE

MAY 23, 2022

\*\*\*\*\*  
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PROCEEDINGS

(Call to order of the court.)

THE COURT: This is the continuation of the trial in  
3:20-cv-1277-S, Michael Cloud versus the Bert Bell/Pete Rozelle  
NFL Player Retirement Plan.

Counsel, please make your appearance on the record.

MR. DENNIE: Good morning, Your Honor. Christian  
Dennie and Paul Vitanza on behalf of the plaintiff. Also with  
plaintiff, Michael Cloud. Thank you.

THE COURT: Thank you.

And on behalf of the defendant?

MR. MEEHAN: Good morning, Your Honor. Edward Meehan  
with Michael Junk and Nolan Knight.

THE COURT: Thank you.

Where we left off on Friday is -- the plan was to  
pick up this morning with the defendant's tender of Jennifer  
Cloud's portions of her deposition that they to want play. We  
had some technical issues going on. I think they've been  
resolved.

Is that still the plan?

MR. MEEHAN: Yes, Your Honor.

THE COURT: Okay. And that being the case, unless  
there's anything you-all want to take up before we start in  
with defendant's offer of Jennifer Cloud, is there anything?

MR. DENNIE: Your Honor, the only thing I wanted to

1 doctor's opinion. We would send out the player for another  
2 opinion. If that second opinion came back positive, saying he  
3 was entitled, then generally that would just -- that would end  
4 the appeal. The player would receive the benefit.

5 Sometimes the opinions would come back so varied and so  
6 different in nature that we would then send it -- that's when  
7 we would send it out to a medical advisory physician because  
8 there was a sort of conflict in the two opinions -- two  
9 doctors' opinions -- or it wasn't clear. And we had a medical  
10 advisor who was a medical advisor to the board, and Dr. Jackson  
11 was the medical -- the medical director -- I'm sorry -- the  
12 medical director of the board. He would help advise us on  
13 whether or not it made sense to what we would say "map a  
14 decision," meaning send it out to a medical advisory physician.  
15 So the vast majority of our decisions were very straightforward  
16 if there was -- based on what the doctor said.

17 And then we had a subset of decisions which were different  
18 in nature. You know, reclassification was one where it didn't  
19 necessarily involve a medical decision. It could have, but  
20 many times it didn't. It was a matter of applying a couple of  
21 provisions to the facts at hand.

22 So just going through that gives you some flavor of what  
23 our job was. This was a job, in reviewing appeals, that was  
24 heavily, heavily determined by what a doctor -- an independent  
25 doctor said. And I think the way the doctors -- the way the

1 whole system worked, we had a medical advisor. And the medical  
2 advisor then helped us set up a network of independent neutral  
3 physicians around the country. And those independent neutral  
4 physicians would be the ones who would do -- for the most part,  
5 do the medical examination of a player, both at the initial  
6 claims level and on appeal.

7 And then we had the third type of doctor we had. In  
8 addition to the medical director and the independent neutral  
9 physicians, we had the medical advisory physician. So we had  
10 three types of doctors that were advising the board on  
11 these -- on the various medical issues that confronted us.

12 Q. Just to fill in a few details. What was the role, as you  
13 perceived it, of the Initial Claims Committee?

14 A. The Initial Claims Committee would -- would make a  
15 judgment on, you know, basically initial claims. An  
16 application would be filed with the Plan Benefits Office which  
17 is in Baltimore. They would pull together the papers, send it  
18 out to the two members of the Initial Claims Committee. And  
19 like everything else in this process, it's a check-and-balance  
20 system.

21 So there's two members of the Initial Claims Committee,  
22 one appointed by the League and one appointed by the union.  
23 And so that -- that would -- and then they would get it, they  
24 would process the papers, they would receive a neutral  
25 physician opinion. And normally, based on that opinion, they

1 would decide it.

2 And, again, if they couldn't agree, it would be called a  
3 "deemed denial" unless the medical advisory said, I think  
4 this -- I think you're reading it wrong. On this medical  
5 issue, I think this is the way we should go; then that would  
6 become the decision of the Initial Claims Committee. So their  
7 job was really to make the initial decision, and then -- then  
8 it was up to the player to decide whether or not if -- if he  
9 did get it, whether or not he wanted to appeal.

10 Q. Okay. Sir, you've talked a lot about doctors and medical  
11 opinions. You've also indicated that there was something  
12 different about a reclassification request. I want to bring  
13 that out a little bit now.

14 Was it the practice of the board to always, each and every  
15 case, send a claim out to a doctor?

16 A. No, it was not.

17 Q. And can you explain why some cases were not sent out to  
18 the doctors?

19 A. Well, I think --

20 Q. At the board level, I should say?

21 A. Yeah. I mean, at the -- on appeal -- in this case, for  
22 example, Mr. Cloud's case, we didn't think -- I didn't think  
23 there was a medical issue involved because it was clear, I  
24 thought, in this case --

25 MR. DENNIE: I'm going to object, Your Honor. It's not

1 personal knowledge. Lack of foundation.

2 THE COURT: Sustained. All his review for Mr. Cloud is  
3 preparing for a deposition. He's already testified under oath  
4 that he has no personal knowledge of what happened to  
5 Mr. Cloud. So if he's pulling out Mr. Cloud, there needs to be  
6 some kind of foundation as to why he didn't go to the doctor.  
7 So the objection is sustained. For many reasons.

8 Q. Okay. Mr. Cass, I'm going to ask you a question, but I'm  
9 going to ask you to confine yourself to your understanding of  
10 the general process. We're not going to apply it to Mr. Cloud  
11 at this point.

12 A. Okay.

13 THE COURT: The Court has heard nothing, direct  
14 evidence, as to Mr. Cloud in the testimony to date. From what  
15 this witness has said, he can not add to that other than  
16 talking about generalities. If the Court is misunderstanding  
17 that, please clarify.

18 You may ask your next question.

19 MR. MEEHAN: Okay. Thank you, Your Honor. Your Honor,  
20 if it's acceptable to the Court, what I'm going to do is lay  
21 out -- or give Mr. Cass an opportunity to lay out his general  
22 approach.

23 THE COURT: Sure. And that's what you've been doing,  
24 and I understand that. And you kind of diverted to something  
25 he has no personal knowledge or memory of, as of I've been

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1 advised.

2 MR. MEEHAN: Right. Sorry, Your Honor.

3 THE COURT: Why don't you just ask your next question.

4 And the objection's sustained.

5 MR. MEEHAN: Fair enough.

6 Q. Okay. So, Mr. Cass, we were going to -- what I'm asking

7 you is, was it the practice, in all cases, of the board to send

8 every claim out for a medical review at the board level?

9 A. It was not.

10 Q. Okay. And can you explain the situations in which the

11 board determined not to send a particular case out for an

12 additional medical review?

13 A. It would typically be an issue where there was not a

14 medical issue involved in the appeal -- where the board

15 determined that there was not a medical issue involved in the

16 appeal.

17 Q. And can you illustrate what types of issues the -- that

18 you, while you were on the board, had concluded were not

19 necessary to have a new medical --

20 A. There were times when reclassification opinions fell under

21 that category.

22 Q. Okay. And can you explain why, in your view,

23 reclassification opinions did not fall into that category?

24 A. It depended on the situation. There could be cases where

25 a reclassification case would require an opinion of a doctor.

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1 medical opinions that had been rendered at the -- at the -- to

2 the -- at the Initial Claims Committee level. It would include

3 whatever additional medical opinions had been received at the

4 appeal -- at the appellate level. It would include

5 the -- whatever additional -- the player was allowed to submit

6 additional materials after the Initial Claims decision. So it

7 would include, on appeal, of -- the Administrative Record would

8 exclude whatever additional materials the player had submitted.

9 It would also, generally, include, if there were prior

10 proceedings regarding the player where he had applied earlier

11 for other benefits under the disability plan, there would be

12 additional materials relating to that, typically.

13 Q. And did you, sir, have a personal practice as to the type

14 of review you conducted of materials available to you on the

15 board concerning claims?

16 A. I would look at the materials and see what -- try to

17 understand exactly what the issues were on appeal. Then I

18 would look at the documents that I thought were pertinent to

19 that issue.

20 Q. Okay. Did you have criteria that you followed during the

21 time to help you determine what you thought were pertinent to

22 the issues when you're reviewing a reclassification claim?

23 A. Well, I would -- on a reclassification claim?

24 Q. Yes.

25 A. You know, I always -- in looking at the appeal, I would

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1 But where -- in a situation where there's -- on its face, the

2 board did not believe that there was a -- that there was a new

3 impairment alleged, then it wouldn't -- it might well be a case

4 where there's no obligation to get a medical opinion because it

5 was not a medical issue.

6 Q. Okay. All right, sir. Let me take you now back again to

7 your practices and your habits with respect to review of claims

8 and how these board meetings worked.

9 Were there materials available to you, as a board member,

10 to review in advance of board meetings that concerned these

11 disability claims?

12 A. Yes.

13 Q. Okay. And can you describe how you accessed materials --

14 you know, how you went about that?

15 A. There was a website you could go onto and read about the

16 cases.

17 Q. And what types of materials were -- were posted on that

18 website?

19 A. Usually the Administrative Record on appeal -- what I

20 understood to be the Administrative Record on appeal.

21 Q. And what -- if you could give your understanding, what

22 does that term "Administrative Record on appeal" mean to you as

23 you were applying it while you were on the board?

24 A. You know, it was -- it was whatever the player had

25 submitted either to the Initial Claims Committee. It was the

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1 always -- whatever the appeal, I would generally look at

2 the -- many players would submit a letter with the appeal, or a

3 memo or something, so I would typically start with that, look

4 at that 'cause that would sort of indicate what the issues

5 were. I would look at the decision of the Initial Claims

6 Committee -- the Initial Claims Committee letter. I would

7 look -- if there were new materials submitted on appeal, I

8 would probably look at those if the player submitted something

9 new.

10 We also had a Plan summary that was on top, that I would

11 look at that. Those are generally the things I would make sure

12 to look at. And then, based on that, I might look at some

13 other materials.

14 Q. Okay. So have you now described your practice that you

15 followed in reviewing these reclassification claims while you

16 were on the board?

17 A. Yes.

18 Q. Let me step back a little bit to get a little broader

19 sense of how this worked. The quarterly board meetings, over

20 what period of time were they conducted?

21 A. It was always -- well, I wouldn't say always. Maybe there

22 were some exceptions. But almost always, as far as I can

23 remember, it was a two-day meeting.

24 Q. And can you describe what happens on day one and then what

25 happens on day two?

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1 A. Well, I think -- you know, I think on day one it was  
2 generally we would be meeting on financial issues and -- at the  
3 board level. Talking to the -- the financial meetings, getting  
4 reports from the financial advisors, getting reports on various  
5 matters relating to the pension plan and sort of aggregate  
6 numbers on the disability plan. But there's also a time in  
7 between the meetings to talk to others. And so it was a way  
8 of -- you would get an idea of what other issues were in front  
9 of us on the cases and on other matters.

10 And then, while we were formally meeting -- I mean, there  
11 was -- ongoing work was going on on the cases among -- between  
12 the union representatives and the League representatives. And  
13 Groom law firm.

14 Q. All right. And in the excerpts of your testimony that  
15 were played, there were references to what was called  
16 "premeetings." Can you explain in more detail what were the  
17 premeetings?

18 A. Well, there was -- on the morning the second day, there  
19 was a premeeting where the board members on -- for the NFL  
20 would meet separately from the board members for the union.  
21 And we would be -- at those meetings, there would be the  
22 management -- in our meetings, we'd have the NFL lawyers,  
23 the -- and also our outside -- the Akin Gump lawyers. Staff of  
24 the Plan Benefit Office would come in and give a report.  
25 Perhaps, the Groom law firm lawyers would come in and give a

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1 report. And we would discuss the cases, among other things.

2 Q. There was also a reference to a process of interacting  
3 between the management side and the labor side concerning these  
4 claims in advance of the formal vote on claims. Can you  
5 describe that?

6 A. I think leading up to the meetings, and at the meetings,  
7 the lawyers for both the -- the players union and for the NFL  
8 would get together and discuss the cases. And you would  
9 have -- and then the Groom law firm would be involved, as well,  
10 because there might be questions for them. So -- and they  
11 would see if there was a consensus on -- if they had major  
12 disagreements on any -- on any of the appeals that were before  
13 us at that upcoming meeting.

14 Q. What was the purpose of the two sides -- management and  
15 labor -- having these discussions in advance of the vote on any  
16 claim?

17 A. It was really to try to focus and present the issue to the  
18 full board and to see -- to see if there's any disagreement.  
19 As I said, because of the way the process here worked and it  
20 was so heavily dependent on medical decisions, it was rare that  
21 there was a disagreement. And if there were a disagreement on  
22 a medical issue, it usually resulted in sending it  
23 out -- tabling the decision and sending it out for an  
24 additional opinion from a medical advisory physician.

25 Q. In the instances of reclassification appeals, what was the

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1 purpose of having the two sides' advisors having these  
2 premeeting discussions?

3 A. Well, just to lay out the issues to see if they saw the  
4 issues the same way so when they'd present it to the board,  
5 each set of board members would know whether or not there was a  
6 disagreement on the issue that had to be resolved.

7 Q. And what was it -- as a board member -- you were expecting  
8 the advisors to accomplish in those premeeting discussions?

9 A. Really to identify issues for us that were -- if there was  
10 a major disagreement and a problem. You know, I think the way  
11 the Plan is set up, if there's an agreement on a medical issue,  
12 we sent it out to a medical advisory physician, as I've said a  
13 couple of times. If it's a disagreement on something else, you  
14 would have to send it to arbitration, and that's what would  
15 happen if you couldn't agree on an appeal.

16 I think in my 11 years on the board, while we had many,  
17 many -- I don't want to call them disagreements, but a decision  
18 basically to table it because it was uncertain, then it would  
19 go out to a medical advisory opinion on medical issues. But on  
20 other issues -- I can recall one case where it went to  
21 arbitration. I don't even remember what that case was. But in  
22 the 11 years I was on the board, I only remember one case that  
23 required us to go to arbitration.

24 Q. Are you certain it was not the Michael Cloud case?

25 A. It was -- it was not the Michael Cloud case.

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1 Q. Sir, the decision letters that were prepared --

2 A. Yes.

3 Q. -- reflecting board -- the board conclusion here, how did  
4 that process --

5 MR. DENNIE: I'm going to object 'cause that calls for  
6 speculation for this witness.

7 THE COURT: He didn't ask his question yet. Overruled.  
8 A premature objection.

9 MR. DENNIE: I'll wait. Sorry.

10 Q. Sir, the process for drafting decision letters for the  
11 board, can you explain, sir, why that was delegated to the  
12 Groom Law Group?

13 A. It really was a -- an issue of the way ERISA works and the  
14 way our Plan worked. Our Plan document really has to comply  
15 with ERISA. There's a provision in ERISA, as I understand it,  
16 that requires once a board makes a decision on a disability  
17 matter, we had to inform the affected person, in this case a  
18 retired player, of our decision. It had -- that decision had  
19 to be -- go out -- the plan says five days. We understood that  
20 it was okay to be five business days.

21 And so that's -- that's -- we didn't have the -- there  
22 wasn't time in a situation where you've got six board  
23 members -- each board member lives in a different city. We're  
24 in a -- we're in yet another city where we're holding the board  
25 meeting. Most of the staff who was going to be doing the

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1 fiduciary duties, correct?

2 A. I cannot delegate a fiduciary duty.

3 Q. Okay. So you delegated the review of the records for

4 disability decisions, correct?

5 A. We delegated some responsibilities, yes.

6 Q. You can't cast a vote on what a disability decision is or

7 isn't if you haven't actually reviewed the documents, right?

8 A. That's completely incorrect. I don't agree with that at

9 all. I mean, these are -- when you've been on the board a long

10 time and you understand the Plan document well and you

11 understand the issues on appeal, it wasn't necessary for me to

12 read all of the medical information, much of which came back

13 from 2009, 2014, that long predated the 2016 application.

14 It wasn't necessary. And I relied on the lawyers. If

15 there was something in that -- in those documents, they would

16 bring it to my attention or to the board's attention. So, no,

17 I don't think I had to do that to perform my fiduciary duties.

18 Q. So wasn't it your Plan practice to actually review the

19 decision letters before they went out, correct?

20 A. It was not -- I did not review decision letters before

21 they went out, correct. And I think, as I explained to you

22 before, it's not practical to do that with the time limit we

23 had.

24 Q. You didn't review decision letters nor comment on them,

25 correct?

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1 A. There's different languages in some of the letters, but

2 it's not -- it's not really changing the definition or the

3 meaning of "changed circumstances" as we consistently applied

4 it.

5 Q. Were you given various decision letters to review in your

6 preparation here today?

7 A. I really just looked at the -- a decision letter relating

8 to Mr. Cloud. And maybe there were a couple of others I've

9 seen over the last -- maybe from my deposition I looked at some

10 others. I can't remember right now.

11 Q. So I'm going to show you --

12 MR. DENNIE: This is in Tab 85, Your Honor. This is a

13 part of Plaintiff's Exhibit 2-11.

14 Q. Would you agree this is from the same board meeting as to

15 where Mr. Cloud's case was decided?

16 A. Yes.

17 Q. Do you know what this case is?

18 A. I have no idea.

19 Q. You wouldn't be able to know or tell me about this case

20 because you haven't reviewed this letter ever, correct?

21 A. Well, that may not be true. It may come back to us in

22 another form, and so I saw it in a later proceeding. It's

23 possible. But I don't -- with the names and everything blacked

24 out, I have no way of -- of knowing who this is or what it is.

25 Q. So this case says that -- dadgum it -- sorry. This case

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1 A. Correct.

2 Q. So if you haven't reviewed the decision letters, you don't

3 know how certain terms were defined in those decision letters;

4 is that correct?

5 A. No, that's not correct. There's a practice that we had,

6 and a way and a process that we followed. Again, we had a

7 checks-and-balances system. I knew I had lawyers looking at

8 these documents from different perspectives. We had been doing

9 this together for many years. We felt -- I felt personally

10 comfortable relying on them once we made a decision to get out

11 a template decision, consistent with many letters we had done,

12 to let the player know what the decision of the board was. So

13 I felt comfortable in the system.

14 Q. Mr. Cass, this will go a lot faster if you'll just answer

15 my question. If Mr. Meehan has follow-up, he can certainly ask

16 it. I'm not asking you to argue the case here. Just answer my

17 questions, okay?

18 It wasn't your practice to review any decision letters

19 once they were sent out, correct?

20 A. That's true.

21 Q. So whoever wrote the decision letters is actually who came

22 up with the definitions in those documents, correct?

23 A. No.

24 Q. Do you know how many different definitions of "changed

25 circumstances" have been used over the years?

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1 says the record encompassed more than 1,500 pages. Do you see

2 that?

3 A. I do.

4 Q. Fair to say you didn't read those 1,500 pages either?

5 A. It is fair to say that, yes.

6 THE COURT: Did you ever -- or did the board ever

7 direct the people you delegated responsibilities to to read all

8 medical records for the players that were submitting

9 applications, or was it, by the time you got on the board, you

10 just assumed that they were read?

11 THE WITNESS: I never issued a directive to that

12 effect.

13 THE COURT: Have you seen that directive?

14 THE WITNESS: Pardon?

15 THE COURT: Have you ever seen a directive that --

16 THE WITNESS: No, Your Honor, I never saw a directive.

17 THE COURT: Thank you.

18 Q. You would agree that the board is the decision-making

19 fiduciaries as it pertains to determination of disability

20 benefits applications, correct?

21 A. Yes.

22 Q. Do you agree that the decision-making fiduciaries of the

23 Plan must carefully apply the rules of the Plan while reviewing

24 voluminous records?

25 A. I mean, the people involved in the process had to do all

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1 of that, yes.  
 2 Q. Okay. But you're testifying here today that you did not  
 3 review these voluminous records?  
 4 A. I'm testifying here today that I personally looked at -- I  
 5 looked at documents that made me comfortable in making a  
 6 decision. Other documents I may not have reviewed, but I was  
 7 relying on others to have reviewed that and to bring to my  
 8 attention something that I may have missed.  
 9 These voluminous records, you know, lots of times  
 10 they're -- I'll get into it some other -- I should not be  
 11 giving testimony unless I get a question. I will not --  
 12 Q. I agree.  
 13 A. Yes. I know you do.  
 14 Q. It will go a lot quicker if we just kind of stick to my  
 15 questions.  
 16 THE COURT: Okay. Ask your next question.  
 17 Q. I'm going to show what's been marked Plaintiff's  
 18 Exhibit 17. Do you recognize Douglas W. Ell and Alvaro I.  
 19 Anillo?  
 20 A. Yes. I know both of them.  
 21 Q. Those are lawyers at the Groom firm?  
 22 A. They're both partners at the Groom firm, yes.  
 23 Q. And they wrote a letter to the Department of Labor dated  
 24 January 19, 2016?  
 25 A. I see that, yes.

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1 A. No.  
 2 Q. -- individuals?  
 3 A. It does not.  
 4 Q. This says: [As read] The decision-making fiduciaries  
 5 review this voluminous record, correct?  
 6 A. Yes. It does say that.  
 7 Q. And you would expect if something's going to be provided  
 8 to the Department of Labor, that it should be accurate?  
 9 A. I think this letter's accurate.  
 10 MR. DENNIE: Your Honor, we're going to go to Tab 60.  
 11 Q. So, Mr. Cass, before I pull it up, one quick second.  
 12 Belinda Lerner was an advisor, correct?  
 13 A. Is still an advisor, yes.  
 14 Q. You're not on the board anymore so it doesn't matter to  
 15 you either way if she's in it or not, correct?  
 16 A. No, but I'm -- I'm just correcting -- I'm -- you're right.  
 17 Okay. She is still an advisor, but it doesn't matter for this  
 18 purpose. Yes.  
 19 Q. Back in 2016, Patrick Reynolds was also an advisor of the  
 20 board?  
 21 A. Patrick Reynolds was the NFL representative on the Initial  
 22 Claims Committee.  
 23 Q. So I'm showing you Plaintiff's Exhibit 3-7 starting at  
 24 XFile 252350. This is an e-mail from Patrick Reynolds to  
 25 LaShay Rose at the Benefits Office dated November 15, 2016. Do

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1 Q. If we go down to Page 3 here, they represent to the  
 2 Department of Labor -- that top paragraph there: [As read] The  
 3 decision-making fiduciaries of the Plan must not only carefully  
 4 apply all of these rules, they must do so while reviewing  
 5 voluminous records. It's typical for a claimant to submit  
 6 hundreds or thousands of pages of documents, including their  
 7 entire college and NFL player -- or excuse me -- NFL medical  
 8 records.  
 9 Did I read that correctly other than that slipup?  
 10 A. You did. You did.  
 11 Q. Do you disagree with this?  
 12 A. No, I don't disagree with it. I don't think it's -- I  
 13 mean, it's not -- again, I think there's a difference between  
 14 decision-making fiduciaries, meaning me personally, or that I'm  
 15 okay del- -- I delegated some of this responsibility. Can I  
 16 just make a quick comment here?  
 17 Q. I think he can help you with that, so let's kind of stick  
 18 to the questions.  
 19 THE COURT: Comments are for later.  
 20 THE WITNESS: Okay. Okay.  
 21 THE COURT: I'll let you have a break.  
 22 THE WITNESS: All right.  
 23 THE COURT: Go ahead.  
 24 Q. This doesn't mention anything about delegating tasks to  
 25 unknown --

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1 you see that?  
 2 A. I do.  
 3 Q. Patrick Reynolds is saying: [As read] Would you please  
 4 have 20 of these packets printed and stapled, sent out to my  
 5 room.  
 6 Do you see that?  
 7 A. I do.  
 8 Q. Okay. He talked about what was discussed or given to you  
 9 by Belinda Lerner in those premeetings. Do you recall that?  
 10 A. I don't recall that premeeting specifically, no.  
 11 Q. Is this what you were given? If you need me to make it  
 12 bigger, let me know.  
 13 A. No, I can read it. This is the type of thing we would  
 14 have been -- we would have been given, yes.  
 15 Q. You would agree that this document, dated November 15,  
 16 2016, doesn't actually give a basis for denial of Mr. Cloud's  
 17 claim?  
 18 A. It doesn't. It does not say that right there, no.  
 19 Q. Okay. And I'll go down to the bottom of it just for  
 20 clarity; so I don't want you to think I'm holding anything out  
 21 on you.  
 22 A. No. She would've -- when in the meeting, she would have  
 23 given an oral thing about why we were not -- and why she didn't  
 24 view this as -- that the appeal should be granted.  
 25 Q. You don't recall that meeting at all from November 16,



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1 2016, correct?

2 A. Correct. I'm just talking about the practice.

3 Q. Okay. You would agree that this document here, which is a

4 spreadsheet that was sent by Patrick Reynolds, who was a member

5 of the committee on November 15, 2016, doesn't make any

6 reference to any of Mr. Cloud's symptoms; is that correct?

7 From 2016 application?

8 A. I can't tell for certain. He talks about depression,

9 which was in both '14 and '16, so I can't tell from this alone.

10 Q. Okay. This document here that's in front of you,

11 Article 3.7, of plaintiff's exhibit, it doesn't make any

12 reference to changed circumstances, correct?

13 A. It does not.

14 Q. It doesn't make any reference to untimeliness under

15 Section 12.6(a), correct?

16 A. It does not.

17 Q. It doesn't make a single reference to "shortly after"

18 under Section 5.3(e)?

19 A. It does not.

20 Q. Do you know whether Belinda Lerner only reviewed the

21 summary that was prepared by the Groom firm?

22 A. I don't know what Belinda Lerner specifically looked at in

23 connection with Mr. Cloud's appeal.

24 Q. You believe that Alvaro Anillo wrote Mr. Cloud's decision

25 letter; is that correct?

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1 more than a young associate, number one. And that's just the

2 reality of the situation. You know, some women who have been

3 paralegals for a long time are very experienced. I -- but I

4 think -- this letter's not only reviewed by -- there's -- a lot

5 of people in the review process over time, so it's not just one

6 person reviewing it.

7 Q. You don't know who reviewed Mr. Cloud --

8 A. No, I don't. I'm talking about practice.

9 Q. Okay. But you're not given the opportunity to review it

10 yourself, correct?

11 A. There's not enough time. That's correct.

12 Q. Natallia Maroz did not attend the November 15, '16, board

13 meeting; is that correct?

14 A. I think that's correct. I don't remember her being there.

15 Q. You didn't talk to Natallia Maroz about any decisions made

16 by the board as it pertains to Mr. Cloud; is that correct?

17 A. I did not.

18 Q. You didn't e-mail Natallia Maroz about any decision made

19 by the board; is that correct?

20 A. That's correct.

21 Q. So I'm going to show you plaintiff --

22 THE COURT: Mr. Dennie, we've been going an hour and

23 45 minutes.

24 MR. DENNIE: Has it been that long? Okay.

25 THE COURT: Yes, it has. So when you get to a stopping

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1 A. I don't really know who wrote it. I think people from the

2 Groom law firm wrote it, I think is what I indicated in my

3 deposition, is what I believe. But I'm not sure.

4 Q. You assumed that Alvaro Anillo wrote the decision letter,

5 correct?

6 A. That's what I said in my deposition, yeah, but, as I said,

7 I don't know.

8 Q. So you were asked a question earlier by the Court. Did

9 you know Natallia Maroz was a paralegal in 2016?

10 A. I thought she had gotten her law degree before then and

11 was -- was a member of the bar, but maybe she was -- her title

12 was paralegal, but I think she's a lawyer.

13 Q. She wasn't in 2016 though. Do you understand that?

14 A. I didn't have any understanding, one way or the other,

15 about it really. Except I thought she was a member of the bar.

16 Q. You would agree that paralegals require a different level

17 of oversight than a lawyer, correct?

18 A. My experience is a paralegal depends totally on the

19 paralegal.

20 Q. You're telling me that you believe a partner in a law firm

21 wrote a letter -- a decision of a disability case -- requires

22 the same oversight as a paralegal?

23 A. You know, let me just say this. I thought -- there

24 are -- if you compare a paralegal to an associate, there's a

25 lot of paralegals, in my experience, that I would trust a lot

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1 point, we're going to take a break.

2 MR. DENNIE: Now is fine, Your Honor, if we want to do

3 that.

4 THE COURT: Okay. Everyone, we're going to take a

5 15-minute break. A 15-minute recess. Come back at 2:30.

6 SECURITY OFFICER: All rise.

7 (Off the record.)

8 Back on the record. Continue your cross. Please.

9 MR. DENNIE: Okay. Thank you, Your Honor.

10 Q. Mr. Cass, when we broke there, we were talking a little

11 bit about, you know, the decision itself. So I'm going to kind

12 of go back to that and get some information there and how that

13 information came about.

14 So you indicated earlier that you do not believe that

15 Natallia Maroz attended the November 2016 board meeting,

16 correct?

17 A. I think that's true. I don't think she did.

18 Q. I'm going to show you this e-mail, which is Tab 63 in our

19 book and Plaintiff's Exhibit 3-7, XFILE-2368.

20 So if you see this, does it appear to be an e-mail from

21 Natallia Maroz to Sam Vincent, requesting the basis for a

22 decision in various cases?

23 A. I see that, yes.

24 Q. And if you'll look down here, can you see that okay, sir?

25 A. Yes.



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REPORTER'S CERTIFICATE

I, Thu Bui, CRR, RMR, Official Court Reporter,  
United States District Court, Northern District of Texas, do  
hereby certify that the foregoing is a true and correct  
transcript, to the best of my ability and understanding, from  
the record of the proceedings in the above-entitled and  
numbered matter.

/s/ Thu Bui  
Official Court Reporter